

City of Raleigh

Amplified Entertainment Permit Application

P.O. Box 590, Raleigh, North Carolina 27602
(919) 890-3200

INSTRUCTIONS *(Please read carefully)*

PLEASE NOTE

Review the attached sections of the Raleigh City Code to ensure that your business is eligible for an Amplified Entertainment Permit.

Contact the Zoning Division at 890-3750 to make sure that your business activity is permitted at your location.

Your application for an Amplified Entertainment will be denied if you have not obtained your permit within 90 days of your application. The Inspections Department may extend this deadline upon your request if you have made reasonable progress toward compliance.

The following criteria must be met before a permit may be issued:

- The applicant must complete the attached form and return it to the Revenue Division.
- The applicant must pay a \$250.00 **non-refundable** filing fee for the Amplified Entertainment Permit. All applicable privilege license taxes and malt beverage and wine taxes must be paid before the business begins operation. **A business may not provide amplified entertainment until it has received an Amplified Entertainment Permit.**

Special Use Permits required in addition to an Amplified Entertainment Permit.

- **Private clubs**, as defined by NC General Statute 18B-1000(5), that are located less than five hundred feet to the nearest corner of any residence located in an area zoned R-10 or less, must receive a Special Use Permit from the Raleigh City Council before an Amplified Entertainment Permit may be issued. For information on applying for a Special Use Permit, contact the Planning Department at (919) 890-3125.
- **Outdoor entertainment** may be permitted in certain areas upon issuance of a Special Use Permit by the Raleigh City Council. For information on applying for a Special Use Permit, contact the Planning Department at (919) 890-3125.

Inspections must be scheduled by the applicant.

- The applicant for an amplified entertainment permit is responsible for scheduling the required inspections. Applicants may schedule inspections by calling:
Building Inspections (919) 890-3500
Fire Prevention (919) 831-6392
- If the premises fails a required inspection, it is the responsibility of the applicant to make the necessary corrections, and schedule the re-inspections. Remember that applicants have 90 days from filing the application to successful completion of the inspections.

The Privilege License Office will contact the applicant once the application has passed building and fire inspections. The license fee will be \$250.00. There will be a \$100.00 renewal fee due each year by June 30.

The application process can be quite lengthy, especially if a Special Use Permit will be required. Please allow at least 60 days from your application date until you plan to begin providing amplified entertainment.

Please Keep This Sheet for Future Reference

License# _____

AN ORDINANCE TO AMEND THE CITY'S REGULATIONS CONCERNING AMPLIFIED ENTERTAINMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH NORTH CAROLINA, that:

Section 1. Section 2 of Part 12, Article D of the Raleigh City Code is hereby repealed, rewritten, and re-enacted to read as follows:

"DIVISION 2

Amplified Entertainment Permit

Section 12-2118. Definition.

All establishments located in Raleigh and providing amplified music or other amplified entertainment *shall* possess an *Amplified Entertainment Permit*. Amplified Entertainment *shall* mean any type of music or other entertainment delivered through and by an electronic system. Televisions operating with no amplification other than their internal speakers and background music systems operated at a low amplification and not intended for entertainment *shall* not be deemed Amplified Entertainment.

Section 12-2119. Requirements for *Amplified Entertainment Permit*.

- (a) Except as otherwise permitted in this Division, all amplified sound must originate within the structure housing the business which holds the Amplified Entertainment Permit and may not be conveyed outside the structure by exterior loudspeakers or any other means.
- (b) Establishments holding an *Amplified Entertainment Permit shall* not generate any sound from their structure or parking area that exceeds the decibel limits set out in Sec. 12-5003 of this code when measured at any property line of the premises covered by the permit.
- (c) Bass noise provisions. In addition to the limits set out in Sec. 12-5003 of this Code, the holder of an *Amplified Entertainment Permit shall* be subject to regulation of certain low frequency emissions from the premises. The following table sets out the greatest allowable amount of low frequency steady-state sound, which may be transmitted across an adjoining property line.

MAXIMUM SOUND LIMITATIONS-LOW FREQUENCY STEADY-STATE SOUNDS,dB (Commercial, Industrial, Business, Office Zones To Residential)

One-Third Octave-Band Center Frequency, Hz	One-Third Octave-Band SPL, dB Daytime	One-Third Octave-Band SPL, dB Nighttime
16	84	79
20	76	71
25	68	63
31.5	60	55
40	59	54
50	57	52
63	56	51
80	55	50
100	54	49
125	53	48
160	52	47
200	51	46
250	50	45
315	49	44

The terms daytime and nighttime *shall* have the same meaning as those terms are defined in Sec. 12-5003. The term steady-state sound is a sound source that is detectable at least fifty percent of the time in a three minute period. Measurements *shall* be made according to the measurement standards and policies adopted by the Raleigh Police Department for the measurement of low frequency noise. Low frequency noise is those sound sources that exhibit acoustic energy in one-third octave bands at or below 355 Hertz.

- (d) Every holder of an *Amplified Entertainment Permit* shall provide the required number of off-street parking spaces required in Part 10 of this code for the zoning district in which the establishment is located. All *Amplified Entertainment Permit* off-street parking areas and all *Amplified Entertainment Permit* establishment property abutting a public right-of-way *shall* be cleaned of all litter by 7:30 a.m. each morning. All off-street parking areas *shall* be lighted. Such illumination *shall* be a minimum average of two (2) maintained foot-candles.

The holder of an Amplified Entertainment Permit for an establishment that is allowed by North Carolina law to accommodate more than 99 people shall provide at least one person with the power of arrest in the jurisdiction continuously present in the parking area between 8:00 p.m. and one hour after closing to provide security and supervision for the parking area. The Amplified Entertainment Permit holder is responsible for assuring that no sound emanating from its parking area exceeds the noise limits measured at the property line for the zoning area in which the establishment is located. It shall be the further responsibility of the Amplified Entertainment Permit holder to cause all patrons to be removed from the parking area no later than 30 minutes after the establishment closes or three o'clock a.m., whichever is earlier.

- e) No private club or establishment as defined in 18B-1000(5) and not holding a class one or class two Entertainment Center Permit as of April 6, 1999, shall be issued an Amplified Entertainment Permit if the private club's building is located closer than five hundred feet to the nearest corner of any residence located in an area zoned R-10 or less. A private club or establishment located closer than 500 feet from the nearest residence in an area zoned for a density of R-10 or less may still obtain an Amplified Entertainment Permit after the issuance of a Special Use Permit by the Raleigh City Council. The City Council will consider the following criteria before granting any such permit.

- (1) The establishment's proximity to residential areas schools, churches, and health care facilities.
- (2) The establishment's history of compliance with noise and nuisance laws.
- (3) Access with respect to pedestrian and automotive safety, traffic flow, emergency service.
- (4) Intensity including such considerations as size, location, hours and/or conditions of operation, and number of participants.
- (5) Landscaping, screening, fencing with respect to protecting affected properties from anticipated noise, loss of privacy, and glare; preserving of important natural features; or harmonizing the request with affected properties.
- (6) Control or elimination of noise, dust, vibration and lighting.
- (7) The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent properties. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.

Section 12-2120. Outdoor Amplified Entertainment

- (a) Notwithstanding any other provisions in this code, the holder of an *Amplified Entertainment Permit* may allow amplified music to be created or conveyed outside the confines of its building under either of the situations set out below:
 - (1) Entertainment District. The *City Council* may create Entertainment Districts in which outdoor music is allowed. Any such district *shall* be created by ordinance duly enacted after a public hearing. Notice of the public hearing *shall* be published once at least ten (10) days before the date of the hearing.
 - (2) Thoroughfare Corridor. Outdoor music *may* also be allowed if amplified from a point within a corridor extending three hundred feet on either side of the right-of-way line of any major/minor thoroughfare, interstate, or federal aid primary highway.
 - (3) Outdoor music in either of the areas described in subsections (1) or (2) above *shall* be allowed only after the issuance of a special use permit allowing the use by the Raleigh *City Council*. Notice of any hearing pursuant to this subsection *shall* be accomplished by publishing a notice of the hearing in a newspaper qualified to convey legal advertising. The newspaper notice *shall* be augmented by a placard measuring no less than 24 inches by 18 inches setting out the place and time of the hearing. The newspaper advertisement *shall* be published and the placard displayed at least ten (10) days prior to the hearing date. The placard *shall* remain on display from its first posting until the date of the hearing. The *City Council* *shall* consider the following factors when acting on a request for a special use permit to allow outdoor music:
 - (a) The establishment's proximity to residential areas, schools, churches, and health care facilities.
 - (b) The establishment's history of compliance with noise and nuisance laws.
 - (c) Access with respect to pedestrian and automotive safety, traffic flow, emergency service.

- (d) Intensity including such considerations as size, location, hours and/or conditions of operation, and number of participants.
 - (e) Landscaping, screening, fencing with respect to protecting affected properties from anticipated noise, loss of privacy, and glare; preserving of important natural features; or harmonizing the request with affected properties.
 - (f) Control or elimination of noise, dust, vibration, and lighting.
 - (g) The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent properties. The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.
- (4) Any special use permit issued by the *City Council* may be limited in its duration and may contain other conditions and limitations including, but not limited to, hours of operation. The special use permit *shall* remain in full force and effect so long as the establishment maintains a valid Amplified Entertainment Permit unless the conditions of approval of the special use permit set out a different term of validity.
- (5) The following activities are exempted from the regulations controlling outdoor amplified sound:
- (a) Stadiums and arenas holding existing special use permits for their operation.
 - (b) Shopping centers containing more than one hundred thousand (100,000) square feet of retail space so long as no such event continues more than seven (7) consecutive days and so long as the total number of days devoted to such events in a calendar year does not exceed twenty (20) days or four (4) weekends.
 - (c) Parades and spectators and participants in parades.
 - (d) Outdoor events, races, festivals or concerts on public property that are sponsored, cosponsored, or permitted by the City.

Section 12-2121. Outdoor Dining

- (a) Outdoor dining is allowed on the City sidewalks after a permit for that use is granted by the City Manager. The permit *shall* be granted if the following criteria are met:
 - (1) The restaurant property has a common boundary line with a public sidewalk.
 - (2) The sidewalk is of adequate width to allow the proposed pedestrian use and normal pedestrian traffic.
 - (3) The applicant submits a valid insurance policy that will indemnify the City for any damage to the sidewalk and for any damages for which the City might incur liability because of property damage or personal injury arising out of the use of the sidewalk for dining purposes. The minimum liability limit of the policy shall be one million dollars (\$1,000,000).

- (4) The applicant shall pay an annual fee of one hundred dollars (\$100.00) for the use of the sidewalk.
- (5) The area to be used for dining shall be fenced off and separated from the sidewalk by a barrier at least three feet high. The barrier shall be Portable and shall not be chemically or mechanically attached to the sidewalk.
- (6) Any such permit shall be revoked if the City Manager determines that the sidewalk is needed for pedestrian flow or if the holder of the permit violates any laws governing the use of the sidewalk.

Section 12-2122. Issuance of Permit.

- (a) The *Amplified Entertainment Permit* shall be issued by the revenue collector upon verification by the Inspections Department and the Fire Department that all relevant code and safety to life requirements have been met. The permit shall be applied for on a form supplied by the Revenue Collector. The application shall contain the name of the Manager, the name of the registered agent for service of process and such other information as the Revenue Collector may deem relevant and appropriate. Upon receipt of the application, the Revenue Collector shall forward a copy of the same to the inspection department for verification of the zoning and building code requirements necessary for the issuance of a license.
- (b) The fee for an initial Amplified Entertainment Permit shall be five hundred dollars (\$500.00). Each annual renewal shall be one hundred dollars (\$100.00).
- (c) Anyone denied a license pursuant to subparagraph (b) may appeal, within thirty (30) days of denial, to the Raleigh City Council. In reviewing appeal of a denial, the Council shall consider the following criteria:
 - (1) The accuracy of the Revenue Collector's factual determination;
 - (2) The number and type of police calls within a three-block area within the past six (6) months and the relationship of the calls to the establishment holding the permit;
 - (3) The zoning classification of surrounding properties;
 - (4) The status of any previously issued permits

If, after a review of the foregoing factors, any adverse conditions exist on any one of the factors, the appeal will not be allowed.

Section 12-2123. Additional Prohibitions.

The use of controlled substances or their possession on the premises of an establishment holding an *Amplified Entertainment Permit* is prohibited and is grounds for the suspension of the permit.

Section 12-2124. Penalties.

- (a) Violations of any of the provisions of this Division will result in the following civil penalties:

(1) First offense in any 12 month period	\$ 500.00
(2) Second offense in any 12 month period	\$1,000.00
(3) Third offense in any 12 month period	\$5,000.00
(4) Fourth offense in any 12 month period	One Year Suspension

- (b) In addition to the above fines and suspension, a violation of this ordinance is also a misdemeanor and *may* also be enforced through injunctive or other equitable relief.
- (c) All violations set out in subsection (a) above shall be assessed by the city zoning inspector. An appeal of the zoning inspector's decision may be made to the City Council. The scope of the City Council's review shall be limited to verifying the findings of fact made by the zoning inspector. If the City Council finds that the facts as found by the zoning inspector are correct, the fine or suspension shall not be disturbed.

Section 12-2125. Effective Date.

Unless otherwise indicated, all provisions of this ordinance *shall* become immediately applicable to all existing class one and class two entertainment centers on the effective date of this ordinance."

Section 2. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

Section 4. Any misdemeanor violation of this ordinance shall be punished to the maximum extent allowed by law which include a fine of more than \$50.00.

Section 5. All provisions of this ordinance, except those contained in Sec. 2119(c), shall be effective on May 1, 1999. The provisions of Sec. 2119(c) shall be effective on July 1, 1999. The provisions of Sec. 2119(e) shall expire and be of no effect on and after May 1, 2000.

ADOPTED: 4-6-99

EFFECTIVE: 5-1-99 and 7-1-99